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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 200221-0061]

RTID 0648-XX019

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; 2020 Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: Through this rule, NMFS maintains previously approved *Illex* squid, longfin squid, and butterfish specifications for the 2020 fishing year and maintains the 2019 Atlantic mackerel acceptable biological catch for 2020 based on updated scientific advice. This action is required to promote the sustainable utilization and conservation of the Atlantic mackerel, squid, and butterfish resources.

DATES: Effective *[insert date of publication in the FEDERAL REGISTER]*.

ADDRESSES: Copies of supporting documents used by the Mid-Atlantic Fishery Management Council, including the Environmental Assessment (EA), the Supplemental Information Report (SIR), the Regulatory Impact Review (RIR), and the Regulatory Flexibility Act (RFA) analysis are available from: Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201,

Dover, DE 19901, telephone (302) 674-2331. The EA/SIR/RIR/RFA analysis is also accessible via the Internet at www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2019-0137.

FOR FURTHER INFORMATION CONTACT: Alyson Pitts, Fishery Management Specialist, (978) 281-9352.

SUPPLEMENTARY INFORMATION:

Background

The regulations implementing the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP) require the Mid-Atlantic Fishery Management Council's Atlantic Mackerel, Squid, and Butterfish Monitoring Committee to develop specification recommendations for each species based upon the acceptable biological catch (ABC) advice of the Council's Scientific and Statistical Committee (SSC). The FMP regulations also require the specification of annual catch limits (ACL) and accountability measure (AM) provisions for butterfish. Both squid species are exempt from the ACL/AM requirements because they have a life cycle of less than one year. In addition, the regulations require the specification of domestic annual harvest (DAH), the butterfish mortality cap in the longfin squid fishery, and initial optimum yield (IOY) for both squid species.

On December 17, 2019 (84 FR 68871), we published a proposed rule in the **Federal Register** seeking public comment on revising the previously approved 2020 Atlantic mackerel specifications to maintain the 2019 specifications with a modification to the recreational catch deduction and change the river herring and shad catch cap in the

Atlantic mackerel fishery. This rule also proposed maintaining the previously approved *Illex* squid, longfin squid, and butterfish specifications. The proposed rule for this action included additional background on specifications and the details of how the Council derived its recommended specifications for Atlantic mackerel, *Illex* squid, longfin squid and butterfish. Those details are not repeated here. For additional information, please refer to the proposed rule for this action.

On August 2, 2019 (84 FR 37778), we published a final rule in the **Federal Register** implementing *Illex* squid, longfin squid, and butterfish specifications for 2019. The Atlantic mackerel specifications for 2019-2021 were developed in May 2018 as part of the final rule for Framework Adjustment 13 (84 FR 58053; October 30, 2019). The Council's SSC met in May 2019 to reevaluate the 2020 specifications based upon the latest information. At that meeting, the SSC concluded that no adjustments to the *Illex* squid, longfin squid, and butterfish specifications were warranted. However, the the SSC recommended to change to the Atlantic mackerel ABC, update the recreational catch, and modify the river herring and shad catch cap.

Until new specifications are implemented, the existing 2019 Atlantic mackerel, *Illex* squid, longfin squid, and butterfish specifications will continue pursuant to 50 CFR 648.22(d)(1).

2020 Atlantic Mackerel Specifications

The original 2020 Atlantic mackerel ABC recommended by the SSC for Framework 13 was based on projections that recognized a strong 2015 year class in the assessment results. At its May 2019 meeting, the SSC considered preliminary results

from the 2019 Canadian Atlantic mackerel assessment, which indicated lower than expected recruitment. As a result, the SSC recommended maintaining the more conservative 2019 ABC. Based on the recommendations of the Council's SSC and the Atlantic Mackerel, Squid, and Butterfish Monitoring Committee, the Council recommended and this action implements the revised 2020 mackerel specifications outlined in Table 1. These specifications are nearly identical to those set in 2019, with the exception of a higher recreational catch deduction based on an updated recreational catch accounting methodology. There is an Atlantic mackerel stock assessment update scheduled for 2020 that will inform future ABC specifications.

Table 1 -- 2019 Atlantic Mackerel Specifications Compared to 2020 Specifications (mt)

Specification	2019	2020
OFL	31,764	NA
ABC	29,184	29,184
Canadian Deduction	10,000	10,000
U.S. ABC	19,184	19,184
Recreational Allocation	1,209	1,270
Commercial Allocation	17,975	17,914
Management Uncertainty Buffer (3 percent)	539	537
Commercial Annual Catch Target	17,436	17,377
DAH	17,371	17,312

River Herring and Shad Catch Cap in the Atlantic Mackerel Fishery

Consistent with maintaining the Atlantic mackerel ABC in 2020 as in 2019, this action maintains the 2019 river herring and shad catch cap (129 mt) for 2020. This action also eliminates the 89-mt trigger provision that was implemented in Framework 13. If the 89-mt trigger were reached, a 20,000-lb (9071.84-kg) possession limit for limited access permit holders would become effective. Eliminating the initial 89-mt trigger

allows for additional landings by the Atlantic mackerel fishery, without compromising the 129-mt catch cap, which serves as an incentive to avoid river herring and shad.

Longfin Squid Specifications

This action maintains the existing longfin squid ABC of 23,400 mt for 2020, as implemented on March 1, 2018 (83 FR 8764). The background for this ABC is discussed in the proposed rule to implement the 2018-2020 squid and butterfish specifications (82 FR 58583; December 13, 2017) and is not repeated here.

Table 2 – 2020 Longfin Squid Specifications in metric tons (mt)

OFL	Unknown
ABC	23,400
IOY	22,932
DAH/DAP	22,932

Table 3 – 2020 Longfin Quota Trimester Allocations

Trimester		Percent	Metric Tons
I	(Jan-Apr)	43	9,861
II	(May-Aug)	17	3,898
III	(Sep-Dec)	40	9,173

2020 Butterfish Specifications

This action also maintains the previously approved 2020 butterfish specifications outlined in Table 4, as initially published on March 1, 2018 (83 FR 8764). The background for these specifications is discussed in the proposed rule to implement 2019 squid and butterfish specifications (82 FR 58583; December 13, 2017) and is not repeated here. These specifications maintain the existing butterfish mortality cap in the longfin squid fishery (3,884 mt) and the existing allocation of the butterfish mortality cap among longfin squid trimesters (Table 5).

Table 4 – 2020 Butterfish Specifications in Metric Tons (mt)

OFL	39,592
ACL = ABC	32,063
Commercial ACT (ABC - management uncertainty buffers for each year)	28,857
DAH (ACT minus butterfish cap and discards)	23,752
Directed Fishery closure limit (DAH - 1,000 mt incidental landings buffer)	22,752
Butterfish Cap (in the longfin squid fishery)	3,884

Table 5 – Trimester Allocation of Butterfish Mortality Cap on the Longfin Squid Fishery for 2020

Trimester	Percent	Metric Tons
I (Jan-Apr)	43	1,670
II (May-Aug)	17	660
III (Sep-Dec)	40	1,554
Total	100	3,844

2020 Illex Squid Specifications

This action maintains the previously approved 2019 *Illex* squid specifications for 2020, outlined in Table 6, as published on August 2, 2019 (84 FR 37778). The background for these specifications is discussed in the proposed rule to implement the 2019 *Illex* squid, longfin squid, and butterfish specifications (May 1, 2019, 84 FR 18471). The Council will set specifications for 2021 and beyond in 2020.

Table 6 – 2020 *Illex* Squid Specifications in metric tons (mt)

OFL	Unknown
ABC	26,000
IOY	24,825
DAH/DAP	24,825

Comments and Responses

We received five relevant comments on the proposed rule from three members of the public and two commercial fishing industry members. Two comments from the general public were supportive of this action due to the precautionary measures taken to

conserve the Atlantic mackerel stock. One comment from a member of the public suggested we cut quotas by 50 percent but provided no rationale. Both members of the commercial fishing industry were supportive of eliminating the 89-mt river herring and shad catch cap trigger provision in order to maximize fishing opportunity in the Atlantic mackerel fishery. However, they both recommended we keep the higher catch cap originally set for 2020 (*i.e.*, 152 mt) to avoid another closure. We agree that removing the 89-mt trigger provision increases the opportunity to fish for Atlantic mackerel; however, the 129-mt river herring and shad catch cap was set in relation to the 2020 ABC and is based on the best scientific information available.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Atlantic Mackerel, Squid, and Butterfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

There is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date. The start of the fishing year began on January 1, 2020, and is currently operating under a higher mackerel ABC than what will be implemented under this rule. There is a need to implement this action in a timely manner to ensure this more conservative ABC is not exceeded and to avoid public confusion. These specifications could not have been put into place sooner to allow for a 30-day delayed effectiveness because the information and data necessary for the Council to develop this action was not available in time for it to be forwarded to NMFS and implemented by January 1, 2020,

the beginning of the fishing year.

Additionally, because this rule relieves a restriction by removing the initial 89-mt river herring and shad catch cap trigger provision, it is not subject to the 30-day delayed effectiveness provision of the APA pursuant to 5 U.S.C. 553(d)(1). If implementation of this action is delayed, the 89-mt river herring and shad catch cap trigger may be reached early in the fishing year for the third consecutive year, resulting in a greatly reduced possession limit that effectively closes the directed fishery. This would prevent the economic benefits from this rule from being realized. Therefore, it is in the public interest to implement this final action as soon as possible.

This final rule is exempt from review under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification and no other information has been obtained that suggests any other

conclusion. As a result, a regulatory flexibility analysis was not required and none was prepared.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 21, 2020.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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